

SNAP Policy on Immigrants and Access Issues

Program Access Issue	Description	SNAP Policy/Regulatory Citation	Other/Legislation
Public Charge	Perception that applying for or receiving SNAP benefits could affect immigration status.	Section 212(a)(4) of the Immigration and Nationality Act (INA) is the law that addresses public charge. Longstanding U.S. Citizenship and Immigration Services (USCIS) policy provides that an immigrant will not be deported, denied entry to the country, or denied permanent status due to receipt of SNAP benefits. This policy was re-affirmed by USCIS in October 2009.	On February 10, 2010 FNS issued an All Commissioners Letter on Public Charge at: http://www.fns.usda.gov/snap/rules/Memo/2010/020110.pdf . Public charge is also on the FNS website, the FNS-313 brochure, and the Non-Citizen Guidance*.
Verification of Immigrant Status	Concern that everyone in the SNAP household must provide verification of legal immigrant status.	Pursuant to section 11(e)(2)(b)(v)(II) of the Food and Nutrition Act of 2008 and 7 CFR 273.2(f)(1)(ii), the State agency must verify eligible status of individuals who apply for benefits. The State agency must give the household the option of withdrawing its application or participating without that household member if that individual does not wish the State agency to verify his/her immigration status. State agencies cannot deny benefits to otherwise eligible household members because other members have chosen not to disclose their citizenship, immigration status, or Social Security number. Household members that “opt out” are considered “non-applicants” and are ineligible for SNAP. However, the individual’s income and resources are still counted to determine eligibility for the remaining household members.	On September 21, 2000, joint guidance on inquiries into citizenship, immigration status, and Social Security numbers for non-applicants was issued by officials at FNS, the Administration for Children and Families and the Centers for Medicare and Medicaid Services and is available on the FNS website at: http://www.fns.usda.gov/SNAP/rules/Memo/pdfs/triagencyletter.pdf . On February 18, 2011, FNS issued further clarifying guidance on this issue, which is available at: http://www.fns.usda.gov/snap/rules/Memo/pdfs/Tri-Agency Guidance Memo-021811.pdf

*Non-Citizen Guidance: detailed policy on eligibility for SNAP immigrants available on the FNS website at: http://www.fns.usda.gov/snap/government/pdf/Non-Citizen_Guidance_063011.pdf.

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Sponsor Deeming and Liability	Whether sponsor deeming applies and what effect it may have on the sponsor.	Provisions at 7 CFR 273.4(c)(2) provide that all the income and resources of an immigrant's sponsor and sponsor's spouse who have signed a legally binding affidavit of support are counted as belonging to the immigrant, even if not available, when determining eligibility for SNAP benefits. Pursuant to section 421(d) and (e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and section 5(i)(2)(E) of the Food and Nutrition Act of 2008, exceptions to sponsor deeming include children under 18 and those who are indigent. An immigrant is indigent if the immigrant's own income and any cash or in-kind assistance from the sponsor or others is less than 130 percent of the poverty income line. States must notify USCIS of indigence determinations. A sponsor who has signed a legally binding affidavit of support on or after December 19, 1997 may be liable for the value of SNAP benefits received by the immigrant they sponsor. On March 6, 2009, Certification Policy Branch (CPB) issued a policy clarification memo specifying that a sponsor's income and resources do not need to be verified to determine indigence.	The March 6, 2009 policy clarification is one of 2 SNAP memos favorably featured on the NILC website at: http://www.nilc.org/immspbs/fnutr/snap-memo-2009-03-06.pdf . On March 30, 2009 provided comments to GAO draft report on sponsor deeming. Final report at: http://www.gao.gov/new.items/d09375.pdf and contains no recommendations for SNAP.
5-year Waiting Period	Most qualified aliens have a 5-year residency requirement in order to be eligible for SNAP.	Section 403 of PRWORA created a 5 year waiting period for qualified aliens. Section 403 lists those exempt from the 5 year residency requirement. Exemptions include: refugees, asylees and veterans and active duty members of the U.S. Armed Forces and their spouses and unmarried dependent children.	A qualified alien in an exempt category listed in section 403 of PRWORA does not need to meet the 5-year requirement. SNAP policy addressed in the Non-Citizen Guidance.*
Time Limits	Iraqi and Afghan special immigrants are eligible for SNAP the same as refugees - indefinitely and without a waiting period - provided other eligibility requirements are met.	The Department of Defense Appropriations Act of 2010 (Section 8120, P.L. 111-118), provides that Iraqi and Afghan Special Immigrants (SIVs) are eligible for federal public benefits the same as refugees, indefinitely and without a waiting period. This legislation amended prior authority that limited SIV eligibility for a period not to exceed 8 months from the date the immigrant was granted SIV status.	Due to the legislative changes in this area, FNS has issued five memos to date on the eligibility of Iraqi/Afghan special immigrants. The latest and current memoranda is at: http://www.fns.usda.gov/snap/rules/Memo/2010/020110a.pdf

*Non-Citizen Guidance: detailed policy on eligibility for SNAP immigrants available on the FNS website at: http://www.fns.usda.gov/snap/government/pdf/Non-Citizen_Guidance_063011.pdf.

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Reporting Illegal Immigrants	Concern that undocumented immigrants will be reported to USCIS.	Section 11(e)(15) of the Food and Nutrition Act requires the State agency to inform the USCIS immediately whenever personnel responsible for the certification or recertification of households determine that any member of a household is ineligible to receive SNAP benefits because the member is present in the U.S. in violation of the INA. The State agency may meet this requirement by conforming with the Interagency Notice providing guidance for compliance with PRWORA section 404 published on September 28, 2000 (65 FR 58301), that requires a State agency to report to the USCIS when any household member is present in the U.S. illegally, if known.	The Interagency Notice clarifies that a State agency (excluding SNAP) “knows” that an immigrant is present illegally when its finding or conclusion of unlawful presence is made as part of a formal determination subject to administrative review and is supported by a determination of the INS or the Executive Office of Immigration Review, such as a Final Order of Deportation.
Language or Literacy	Some clients may not be able to read or write in their native language or have limited English proficiency.	Section 11(e)(1)(B) of the Food and Nutrition Act of 2008 requires states to comply with FNS regulations that require bilingual personnel and printed materials in areas that have a substantial number of members of low-income households that speak a language other than English. Regulations at 7 CFR 272.4(b) provide that State agencies shall provide bilingual program information and certification materials and bilingual staff or interpreters as specified in 272.4(b)(2) and (3).	FNS (via OSIPO) produces a variety of relevant language outreach materials to help reduce barriers to program access for immigrant households.
SNAP Policy Memos	Description	SNAP Policy Summary	Relevant Links
Recent Policy Memos Impacting Immigrants	1. Discrepant name and Earnings Statement	1. On November 13, 2008, CPB issued a policy memo addressing VA’s policy concerning discrepancies between a household member’s name and the name and social security number shown on documents used to verify earnings. The policy memo provided that pursuant to SNAP regulations at 7 CFR 273.2(f)(5)(i), an applicant household is required to report earnings and the household is expected to make an effort to document earnings and cooperate with the State agency to verify the information. Further, 273.2(f)(4)(i) states that available documentation will vary by household circumstances and provides flexibility in meeting the verification requirements by requiring State agencies to assist households in obtaining verification, to explore alternative sources of verification and to accept any reasonable documentary evidence. This memo is one of two SNAP memos favorably featured on the NILC home page.	Final policy memo can be viewed at: http://www.fns.usda.gov/snap/rules/Memo/2008/111308.pdf

*Non-Citizen Guidance: detailed policy on eligibility for SNAP immigrants available on the FNS website at: http://www.fns.usda.gov/snap/government/pdf/Non-Citizen_Guidance_063011.pdf .

2. Whether Verification of Sponsor's Income is Required to Determine Indigence	2. Pursuant to section 421(e) of PRWORA, verification of a sponsor's income is not needed to determine whether the immigrant is indigent. Although verification is not needed to determine whether an immigrant is indigent, any cash contribution the immigrant receives from the sponsor must be verified to determine the household's benefit amount.	Final guidance can be viewed at: http://www.fns.usda.gov/snap/rules/Memo/2009/030609b.pdf
3. Guidance on Extension for Afghani Special Immigrants.	3. On January, 29, 2010, CPB issued a policy memo addressing Iraqi and Afghan SNAP eligibility. The Department of Defense Appropriations Act of 2010 (Section 8120, P.L. 111-118), provides that Iraqi and Afghan Special Immigrants (SIVs) are eligible for federal public benefits the same as refugees, indefinitely and without a waiting period. This legislation extended eligibility indefinitely for these individuals who had previously had only an 8 month eligibility period.	Final guidance can be viewed at http://www.fns.usda.gov/snap/rules/Memo/2010/020110a.pdf
4. Humanitarian Parole Policy for Certain Haitian Orphans	4. On February 19, 2010, CPB issued a policy memo to clarify that Haitian orphans admitted under humanitarian parole meet the definition of a Cuban/Haitian entrant and are eligible to receive SNAP benefits with no waiting period. In addition, the children are not subject to sponsor deeming rules.	Final guidance can be viewed at: http://www.fns.usda.gov/snap/rules/Memo/2010/021910.pdf
5. Clarification on SNAP Eligibility for Haitians Granted Temporary Protected Status (TPS)	5. On March 30, 2010, CPB issued a policy memo addressing the SNAP eligibility of Haitians granted TPS. The memo provided that Haitians with TPS are not considered Haitian entrants under section 431(b)(7) of PRWORA and therefore are not qualified aliens eligible for SNAP benefits.	Final guidance can be viewed at: http://www.fns.usda.gov/snap/rules/Memo/2010/033010.pdf
6. Conforming to the Tri-Agency Guidance through Online Applications	6. On February 18, 2011, PDD issued a policy memo addressing the ability of mixed immigration status households to apply for SNAP online. The memo provided guidance for States on how to develop their online applications to comply with the Tri-Agency Guidance, a joint memorandum signed by officials at FNS, CMS and ACF in 2000 that provided policy guidance for State agencies on handling issues involving immigration status and social security numbers of persons in households seeking assistance.	Final guidance can be viewed at: http://www.fns.usda.gov/snap/rules/Memo/pdfs/Tri-Agency_Guidance_Memo-021811.pdf